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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
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| 09/171,377      | 10/16/98    | BOHLEN               | D 6065              |

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EXAMINER

DOUYON, L

ART UNIT

PAPER NUMBER

1751

DATE MAILED: 06/11/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

## Office Action Summary

Application No.

09/171,377

Applicant(s)

BOHLEN ET AL

Examiner

LORNA M. DOUYON

Group Art Unit

1751

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

### Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE THREE(3) MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

### Status

- ☐ Responsive to communication(s) filed on \_\_\_\_\_.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

### Disposition of Claims

- ☒ Claim(s) 1-16 is/are pending in the application.  
Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-16 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

### Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
  - ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
  - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

\*Certified copies not received: \_\_\_\_\_.

### Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 1
- ☒ Notice of References Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

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*Abstract*

1. This application does not contain an abstract of the disclosure as required by 37

CFR 1.72(b). An abstract on a separate sheet is required.

*Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Evaluations of the level of ordinary skill in the art require consideration of such factors as various prior art approaches, types of problems encountered in the art, rapidity with which innovations are made, sophistication of technology involved, educational background of those actively working in the field, commercial success, and failure of others.

The “person having ordinary skill” in this art has the capability of understanding the scientific and engineering principles applicable to the claimed invention. The evidence of record including the references and/or admissions are considered to reasonably reflect this level of skill.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was

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made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Welch et al. (U.S. Patent No. 5,574,005), hereinafter "Welch".

Welch teaches process for preparing detergent agglomerates for a detergent composition which comprises the steps of: (a) providing a non-linear viscoelastic surfactant paste including, by weight of the surfactant paste, from about 70% to 95% of a deterative surfactant, preferably a mixture of alkyl sulfate and linear alkylbenzene sulfonate surfactants in a weight ratio of about 3:1, and from about 5% to about 30% of water; (b) regulating the amount of sodium carbonate in the surfactant paste such that the surfactant paste has a Maximum Shear Rate of at least  $20 \text{ sec}^{-1}$  so that the surfactant paste is processable; (c) charging the surfactant paste into a high speed mixer/densifier; (d) inputting from about 1% to about 70% by weight of a detergency builder into the high speed mixer/densifier; and (e) agglomerating the surfactant paste and the builder by treating the surfactant paste and the builder initially in the high speed mixer/densifier and subsequently in a moderate speed mixer/densifier so as to form detergent agglomerates (see abstract; col. 3, line 51 to col. 4, line 2). Welch also teaches that the process can comprise the step of spraying an additional binder like polyethylene glycol in the mixer/densifier (see col. 6, lines 38-46). Welch also teaches that a wide variety of problems have been encountered with handling high active, high viscoelastic surfactant pastes which are particularly useful in producing

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high density, high active detergent agglomerates suitable for modern low dosage detergent products. Welch also teaches that high active surfactant pastes typically must be kept at elevated temperatures to insure that they have a low enough viscosity to pump in and out of transport tracks or trains and in and out of storage tanks at the manufacturing facility and that any significant decreases in temperature may lead to undesirable gelling or solidification of the surfactant paste causing increases in manufacturing expenses and time (see col. 2, lines 1-16). Welch also teaches that a high active viscoelastic paste requires an additional amount or buffer amount of carbonate and/or hydroxide so as to maintain the storage and transport stability of the surfactant paste before it is processed into a detergent product (underlining supplied, see col. 2, lines 35-42). Welch, however, fails to disclose an example wherein the surfactant paste containing sodium hydroxide is regulated at the recited temperature range.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have regulated the temperature of the surfactant paste containing sodium hydroxide in view of the prior art's teachings of Welch because a reference may be relied upon for all that it would have reasonably suggested to one having ordinary skill in the art, including nonpreferred embodiments, see *Merck & Co. v. Biocraft Laboratories*, 874 F.2d 804, 10 USPQ 2d 1843 (Fed. Cir.), *cert. denied*, 493 U.S. 975 (1989). In addition, "[t]he use of patents as references is not limited to what the patentees describe as their own inventions or to the problems with which they are concerned. They are part of the literature of the art, relevant for all they contain." *In re Heck*,

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699 f.2d 1331, 1332-33, 216 USPQ 1038, 1039 (Fed. Cir. 1983) (quoting *In re Lemelson*, 397 F.2d 1006, 1009, 158 USPQ 275, 277 (CCA 1968). See also MEP. 2123.

5. Claims 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nassano et al. (US Patent No. 5,691,297), herinafter "Nassano".

Nassano teaches a high density detergent composition comprising 21.6 wt% C<sub>14</sub>-C<sub>15</sub> alkyl sulfate, 7.2 wt% C<sub>12,3</sub> linear alkylbenzene sulfonate, 32.4 wt% aluminosilicate, and 0.5 wt% polyethylene glycol (see Example at Table I under col. 12). Nassano, however, fails to disclose the recited process for preparing the above composition.

Any difference imparted by the product by process limitations would have been obvious to one having ordinary skill in the art at the time the invention was made because where the examiner has found a substantially similar product as in the applied prior art, the burden of proof is shifted to the applicant to establish that their product is patentably distinct, not the examiner to show the same process of making, see *In re Brown*, 173 USPQ 685 and *In re Fessmann*, 180 USPQ 324.

6. The prior art made of record and not relied upon is considered pertinent to applicants' disclosure. These references are considered cumulative to or less material than those discussed above.

7. Applicants are reminded that any evidence to be presented in accordance with 37

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CFR 1.131 or 1.132 should be presented prior to final rejection in order to be considered timely.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lorna M. Douyon whose telephone number is (703) 305-3773. The examiner can normally be reached on Mondays-Fridays from 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta, can be reached on (703) 308-4708. The fax phone number for this Technology Center is (703) 305-3599.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center receptionist whose telephone number is (703) 308-0661.

June 4, 1999

*Lorna M. Douyon*  
Lorna M. Douyon  
Primary Examiner  
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